

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENDORSING)	RESOLUTION NO. 91-1378
WESTSIDE CORRIDOR PROJECT)	
IMPLEMENTATION MEASURES)	Introduced by
)	David Knowles, Chair
)	Joint Policy Advisory
)	Committee on Transportation

WHEREAS, ODOT has committed funds for the associated highway improvements in the 1990-1996 Six-Year Highway Improvement Program; and

WHEREAS, The Westside Corridor Project is comprised of Light Rail Transit (LRT) from Portland to Hillsboro and improvements to the Sunset Highway and Highway 217; and

WHEREAS, The Westside Corridor Project is the region's number one priority; and

WHEREAS, The United States Congress has directed that a full-funding contract for 75 percent federal participation be executed by September 30, 1991; and

WHEREAS, The allowable federal participation will likely change to a maximum of 50 percent after September 30, 1991; and

WHEREAS, Steps to be completed prior to execution of the Full-Funding Contract include publishing the Supplemental Draft Environmental Impact Statement, conducting a public hearing, selecting and approving the Preferred Alternative, and completing the Final Environmental Impact Statement; and

WHEREAS, The voters of the metropolitan area approved \$110 million of general obligation bonds toward the needed LRT local matching funds; and

WHEREAS, Portland, Washington County and Metro will provide an additional \$21 million toward the needed LRT local matching funds; and

WHEREAS, Completion of the decision-making process and funding commitments in an expeditious manner is critical to maintain the schedule to sign a Full-Funding Agreement by September 30, 1991; and

WHEREAS, the project is consistent with the Regional Transportation Plan; now, therefore

BE IT RESOLVED,

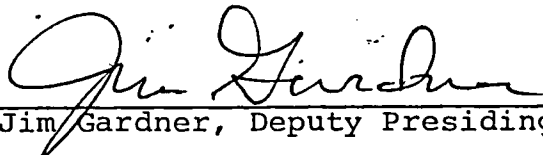
That the Council of the Metropolitan Service District:

1. Endorses HB 2128 (Exhibit A) to be adopted by the Oregon Legislature providing for a commitment of state funds to complete the local match commitment for the LRT project.

2. Endorses LC 2193 dated December 24, 1990 (Exhibit B) to be adopted by the Oregon Legislature providing for an expedited process for judicial review of land use appeal(s) of the approved Westside Corridor Project Preferred Alternative including the explanation of the basis for the bill as reflected in the recitals.

3. Authorizes amendment to the Westside Transit Corridor Planning Coordination Agreement (Exhibit C) to ensure an expedited decision-making process.

ADOPTED by the Council of the Metropolitan Service District this 24th day of January, 1991.


Jim Gardner, Deputy Presiding Officer

HB 2128

LC 1204

11/15/90 (JB/bg)

FINAL

DRAFT

D R A F T**SUMMARY**

Requires first \$10 million in annual revenue from cigarette taxes otherwise credited to General Fund to be transferred into Regional Light Rail Extension Construction Fund.

Provides for termination of transfer of cigarette tax moneys to Regional Light Rail Extension Construction Fund when moneys are no longer needed for Westside corridor light rail extension.

Prohibits expenditure of moneys from Regional Light Rail Extension Construction Fund unless Director of Transportation determines, with respect to construction phases of project, elements of project which are designated for state participation and estimates total amount of state's funding obligation.

Declares emergency, effective July 1, 1991.

A BILL FOR AN ACT

Relating to light rail system extensions; creating new provisions; amending

ORS 323.455 and 391.120; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) Notwithstanding ORS 323.455, of the moneys paid over to the State Treasurer by the Department of Revenue under ORS 323.455, the State Treasurer in each fiscal year shall transfer \$10 million from the suspense account established under ORS 293.445 to the Regional Light Rail Extension Construction Fund established by ORS 391.120. Moneys transferred to the Regional Light Rail Extension Construction Fund under this section shall be taken from those moneys that are otherwise required under ORS 323.455 to be credited to the General Fund.

(2) In each fiscal year, the State Treasurer shall transfer and credit the amount of money specified in this section to the Regional Light Rail Extension Construction Fund before crediting any moneys to the General Fund under ORS 323.455.

(3) Moneys credited to the Regional Light Rail Extension Construction

1 Fund under this section shall be transferred to the fund at the same time
2 as the cigarette tax moneys are distributed to cities and counties under ORS
3 323.455.

4 (4) Moneys transferred to the Regional Light Rail Extension Construction
5 Fund under this section may be expended for any purpose for which moneys
6 in the Regional Light Rail Extension Construction Fund may be lawfully
7 expended under ORS 391.120.

8 (5) The transfer of moneys to the Regional Light Rail Extension Con-
9 struction Fund authorized by this section shall cease when the Director of
10 Transportation certifies in writing that transfers of moneys under this sec-
11 tion are no longer necessary because:

12 (a) Moneys in the Regional Light Rail Extension Construction Fund are
13 sufficient for the payment of all amounts committed to be paid under all
14 written agreements or commitments entered into between the Director of
15 Transportation and the Tri-County Metropolitan Transportation District
16 pursuant to ORS 391.120 with respect to the Westside corridor extension of
17 light rail referred to in ORS 391.120(2)(a); and

18 (b) The Westside corridor extension of light rail referred to in ORS
19 391.120(2)(a) has been completed and such project has been accepted by the
20 Department of Transportation, and all claims, suits and actions arising out
21 of such project that could create a liability payable out of the moneys in the
22 Regional Light Rail Extension Construction Fund have been resolved.

23 (6) The Director of Transportation shall deliver a copy of such certif-
24 ication to the Governor and the State Treasurer. Upon receipt of the direc-
25 tor's written certification that transfer of moneys to the Regional Light Rail
26 Extension Construction Fund under this section is no longer necessary, the
27 State Treasurer shall thereafter credit moneys received from the Department
28 of Revenue under ORS 323.455 to the General Fund as required by ORS
29 323.455.

30 **SECTION 2.** ORS 323.455 is amended to read:

31 323.455. (1) All moneys received by the department from the tax imposed

1 by ORS 323.030 (1) shall be paid over to the State Treasurer to be held in a
2 suspense account established under ORS 293.445. After the payment of re-
3 funds and except as provided in section 1 of this 1991 Act, eleven-
4 fourteenths shall be credited to the General Fund, one-fourteenth is
5 appropriated to the cities of this state, one-fourteenth is appropriated to the
6 counties of this state and one-fourteenth is continuously appropriated to the
7 Public Transit Division of the Department of Transportation for the purpose
8 of financing and improving transportation services for elderly and disabled
9 individuals as provided in ORS 391.800 to 391.830.

10 (2) The moneys so appropriated to cities and counties shall be paid on a
11 monthly basis within 35 days after the end of the month for which a dis-
12 tribution is made. Each city shall receive such share of the money appro-
13 priated to all cities as its population, as determined under ORS 190.510 to
14 190.590 last preceding such apportionment, bears to the total population of
15 the cities of the state, and each county shall receive such share of the money
16 as its population, determined under ORS 190.510 to 190.590 last preceding
17 such apportionment, bears to the total population of the state.

18 (3) The moneys appropriated to the Public Transit Division of the De-
19 partment of Transportation under subsection (1) of this section shall be dis-
20 tributed and transferred to the Elderly and Disabled Special Transportation
21 Fund established by ORS 391.800 at the same time as the cigarette tax mon-
22 eys are distributed to cities and counties under this section.

23 SECTION 3. ORS 391.120 is amended to read:

24 391.120. (1) The Regional Light Rail Extension Construction Fund, sepa-
25 rate and distinct from the General Fund, is established in the State Treasury.
26 All moneys in the fund are appropriated continuously to the Public Transit
27 Division of the Department of Transportation for the purposes specified in
28 this section. Interest received on moneys credited to the Regional Light Rail
29 Extension Construction Fund shall accrue to and become part of the Re-
30 gional Light Rail Extension Construction Fund.

31 (2) The Public Transit Division may expend moneys in the Regional Light

1 Rail Extension Construction Fund to finance the preliminary engineering
2 phase, final design phase, advanced right of way acquisition phase or con-
3 struction and acquisition of equipment and facilities phase of projects for
4 extensions to the Tri-County Metropolitan Transportation District's light
5 rail system, as designated in the Regional Transportation Plan adopted by
6 the metropolitan service district in 1989, as amended from time to time. The
7 Director of Transportation may enter into written agreements with the Tri-
8 County Metropolitan Transportation District that commit the department to
9 pay anticipated funds from the Regional Light Rail Extension Construction
10 Fund to the district for the purpose of financing such costs of extending the
11 district's light rail system, including servicing any obligations entered into
12 by the district to finance the costs of extending the district's light rail sys-
13 tem, which written agreements may provide for the remittance of such funds
14 on such periodic basis, in such amounts, over such period of years and with
15 such priority over other commitments of such funds as the director shall
16 specify in the commitment. Any such written agreements or commitments,
17 when executed by the director and accepted by the district, shall be solely
18 conditioned upon actual funds available in the Regional Light Rail Extension
19 Construction Fund and shall be valid, binding and irrevocable in accordance
20 with its terms, subject only to the requirements of subsection (3) of this
21 section. The extensions to the light rail system for which projects may be
22 authorized and financed from the Regional Light Rail Extension Con-
23 struction Fund include:

- 24 (a) The Westside corridor.
- 25 (b) The Interstate 5 North corridor.
- 26 (c) The Interstate 205 corridor.
- 27 (d) The Milwaukie corridor.
- 28 (e) The Barbur corridor.
- 29 (f) The Lake Oswego corridor.
- 30 (g) Appropriate branches to the Banfield corridor.
- 31 (h) Appropriate branches to the corridors specified in paragraphs (a) to

1 (f) of this subsection.

2 (3) Notwithstanding any written agreement entered into by the Di-
3 rector of Transportation under subsection (2) of this section, no moneys
4 shall be expended from the Regional Light Rail Extension Construction Fund
5 for the preliminary engineering phase, final design phase, advanced right of
6 way acquisition phase or construction and acquisition phase of projects un-
7 less the Director of Transportation determines:

8 (a) That all state and local approvals are in place for the phase of the
9 specific project for which funding is being sought;

10 (b) That assurances are in place for obtaining all moneys, other than
11 moneys for which the determination is being made, necessary to enable
12 completion of the phase of the specific project for which funding is being
13 sought and that the Tri-County Metropolitan Transportation District has
14 agreed to provide an amount of money equal to that being provided by the
15 Regional Light Rail Extension Construction Fund for the phase of the spe-
16 cific project for which money is being sought; [and]

17 (c) With respect to the phase of the specific project for which funding is
18 being sought, that the body of local officials and state agency representatives
19 designated by the metropolitan service district which functions wholly or
20 partially within the Tri-County Metropolitan Transportation District and
21 known as the Joint Policy Advisory Committee on Transportation has certi-
22 fied that the phase of the specific project is a regional priority[.]; and

23 (d) With respect to construction phases of any project, the elements
24 of the project that are designated for state participation and an esti-
25 mated total amount of the state's funding obligation.

26 (4) When the actual expenditures for a phase of a specific light rail
27 project fall short of the estimated expenditures for the project, those moneys,
28 other than federal moneys, that are not required for that phase of the project
29 shall remain in the Regional Light Rail Extension Construction Fund for use
30 in completing other projects described in subsection (2) of this section.

31 (5) On or before August 31 in each year, the Director of Transpor-

1 tation shall certify to the Governor and the State Treasurer whether
2 or not there existed, as of the end of the immediately preceding fiscal
3 year, an unobligated balance of moneys in the Regional Light Rail
4 Extension Construction Fund that was derived from the moneys re-
5 quired to be transferred to the Regional Light Rail Extension Con-
6 struction Fund under section 1 of this 1991 Act. If the Director of
7 Transportation certifies that there existed such an unobligated balance
8 of moneys derived from the moneys required to be transferred to the
9 Regional Light Rail Extension Construction Fund under section 1 of
10 this 1991 Act, an amount equal to the unobligated balance as of the
11 end of the immediately preceding fiscal year shall revert to the Gen-
12 eral Fund, and the State Treasurer shall credit such amount to the
13 General Fund on or before the September 15 next following the date
14 of the certification by the Director of Transportation.

15 [(5)] (6) The Director of Transportation shall certify the unobligated bal-
16 ance of the Regional Light Rail Extension Construction Fund, and that un-
17 obligated balance shall revert to the General Fund if the Director of
18 Transportation determines that all projects referred to in subsection (2) of
19 this section have been completed and the projects have been accepted by the
20 Director of Transportation and all claims, suits and actions arising out of
21 the projects have been resolved.

22 (7) For purposes of subsections (5) and (6) of this section, moneys
23 in the Regional Light Rail Extension Construction Fund derived from
24 the moneys required to be transferred to the Regional Light Rail Ex-
25 tension Construction Fund under section 1 of this 1991 Act shall be
26 obligated to the extent such moneys are needed to fund the amounts
27 committed to be paid in the current or any future fiscal year under
28 any written agreement or commitment entered into by the Director
29 of Transportation under subsection (2) of this section.

30 (8) The Public Transit Division of the Department of Transportation
31 may deduct from the Regional Light Rail Extension Construction Fund

1 the costs associated with administering the fund.

2 SECTION 4. This Act being necessary for the immediate preservation of
3 the public peace, health and safety, an emergency is declared to exist, and
4 this Act takes effect July 1, 1991.

5

LC 2193
Processed But Not
Drafted By Legisla-
tive Counsel
12/24/90 (JB/rc)

*Revised to
Finding*

DRAFT

SUMMARY

Declares that approval of Westside Corridor Project under this Act is consistent with applicable statewide planning goals.

Establishes procedures for Tri-County Metropolitan Transportation District when conducting hearing for adoption of final order selecting route and improvements for corridor project.

Requires amendment of specified comprehensive plans and land use regulations to make them consistent with final order.

Grants exclusive jurisdiction for review of final order to Land Use Board of Appeals or Supreme Court.

Provides procedure for judicial review of final order.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1

2 Relating to Westside Corridor Project; and declaring an emergency.

3 Whereas Portland metropolitan area governments are united in seeking
4 federal funding for a transportation facility, known as the Westside Corridor
5 Project. Since 1983, the **Metropolitan Service District's Regional Transpor-**
6 **tation Plan**, based upon recommendation of the Tri-County Joint Policy Ad-
7 visory Committee on Transportation, has identified the project as the
8 Portland metropolitan region's highest transportation priority. The Depart-
9 ment of Transportation has identified the project as its highest transporta-
10 tion priority. The Department of Environmental Quality has identified the
11 project as a high air-quality priority in the region. The Department of En-
12 ergy has identified the project among its emission reduction strategies for
13 the Portland metropolitan area; and

14 Whereas at a total estimated cost over \$900 million, the project would be
15 the largest public works project in Oregon history. To obtain federal funds

1 at 75 percent of the project cost, the Tri-County Metropolitan Transportation
2 District must sign a full funding agreement with the Urban Mass Transpor-
3 tation Administration by September 30, 1991. Thereafter, a change in federal
4 law will reduce federal participation in the project from the current 75 per-
5 cent level to 50 percent or less of project cost. The difference between the
6 federal contribution at 75 percent of project cost and 50 percent of project
7 cost is approximately \$227 million; and

8 Whereas the Portland metropolitan area has demonstrated strong political
9 and financial support for the project. In November 1990, 74 percent of those
10 voting in the tri-county region approved a \$125 million bond measure in-
11 creasing local property taxes to fund the project; and

12 Whereas the Tri-County Metropolitan Transportation District must com-
13 plete certain steps necessary to obtain a full funding agreement with the
14 Urban Mass Transportation Administration by the September 30, 1991,
15 deadline. In January 1989, the Tri-County Metropolitan Transportation Dis-
16 trict submitted to the Urban Mass Transportation Administration a supple-
17 mental draft environmental impact statement to allow the project to go
18 forward. The Tri-County Metropolitan Transportation District had expected
19 to release the supplemental draft environmental impact statement and hold
20 public hearings thereon by March 1989. However, the Urban Mass Trans-
21 portation Administration has requested revisions and new information, re-
22 sulting in delay in releasing the supplemental draft environmental impact
23 statement; and

24 Whereas Metro's Regional Transportation Plan and the acknowledged
25 comprehensive plans of the affected counties and cities already authorize
26 light rail transit usage. Those determinations were not appealed; and

27 Whereas aside from determinations to be made under federal law, the only
28 outstanding land use related issues to be resolved are a choice between an
29 above-ground or tunnel rail alignment through the Sunset Canyon in the
30 City of Portland, a choice between the Henry Street and Burlington North-
31 ern rail alignments in the City of Beaverton, and issues related to elements

1 of the highway improvements included in the project. Under federal law,
2 these matters cannot be decided until after the Urban Mass Transportation
3 Administration has accepted the supplemental draft environmental impact
4 statement and a public hearing on the supplemental draft environmental
5 impact statement has been held. Upon acceptance by the Urban Mass
6 Transportation Administration, the supplemental draft environmental impact
7 statement must be circulated for 45 days, during which the Tri-County Met-
8 ropolitan Transportation District will hold a public hearing on the docu-
9 ment. Following the hearing, the Tri-County Metropolitan Transportation
10 District must adopt a Preferred Alternative Report, determining whether or
11 not to build the project and, if to build, determining the alignment; and

12 Whereas following Tri-County Metropolitan Transportation District's
13 adoption of the Preferred Alternative Report, Tri-County Metropolitan
14 Transportation District must prepare a Final Environmental Impact State-
15 ment for Urban Mass Transportation Administration approval and then
16 complete and sign the full funding agreement. Approximately 45 days are
17 required to complete the Final Environmental Impact Statement process.
18 This includes time to gain necessary signatures from the United States En-
19 vironmental Protection Agency, up to 14 days to distribute the Final Envi-
20 ronmental Impact Statement for publication in the Federal Register, and a
21 30-day circulation period. At the conclusion of this Final Environmental
22 Impact Statement process, the Urban Mass Transportation Administration
23 can sign the Federal Decision of Record giving final approval to the project.
24 Thereafter, approximately 30 days are required for the Urban Mass Trans-
25 portation Administration and the Tri-County Metropolitan Transportation
26 District to complete negotiations on and enter into the full funding agree-
27 ment; and

28 Whereas upon the Tri-County Metropolitan Transportation District's de-
29 termination of the light rail route and associated highway improvements,
30 affected local governments and the Metropolitan Service District may need
31 to amend their comprehensive or functional plans or make other land use

1 decisions necessary to be consistent with the Tri-County Metropolitan
2 Transportation District's determination. Each of these actions could consti-
3 tute a land use decision subject to appeal to the Land Use Board of Appeals
4 and the appellate courts. The time required for these local governments and
5 agencies to make necessary land use decisions, and for the Land Use Board
6 of Appeals and the appellate courts to review those decisions and enter final
7 orders, would extend well beyond the September 30, 1991, deadline for signing
8 the full funding agreement, and thereby could cause the region to lose fed-
9 eral funding at the 75 percent level; and

10 Whereas under federal law and practice, the Tri-County Metropolitan
11 Transportation District must assure the Urban Mass Transportation Admin-
12 istration that all land use decisions concerning the determination to build
13 the project and determination of the light rail route and associated highway
14 improvements are fully and finally resolved prior to completion of the Final
15 Environmental Impact Statement, entry of the federal Decision of Record and
16 Urban Mass Transportation Administration approval of the full funding
17 agreement. To accomplish these steps and enter into the full funding agree-
18 ment by September 30, 1991, all land use issues concerning whether to build
19 the project and selection of project alignment must be fully and finally re-
20 solved no later than July 15, 1991; and

21 Whereas to avoid multiple appeals that jeopardize the Tri-County Metro-
22 politan Transportation District's ability to complete and sign a full funding
23 agreement for 75 percent federal funding by September 30, 1991, it is neces-
24 sary to consolidate all land use decisions required to approve the alignment
25 for the project into a single land use decision. Because the Tri-County Met-
26 ropolitan Transportation District is the agency preparing the supplemental
27 draft environmental impact statement, adopting the Preferred Alternative
28 Report, preparing the Final Environmental Impact Statement and negotiating
29 the full funding agreement with the Urban Mass Transportation Adminis-
30 tration, the Tri-County Metropolitan Transportation District is the most
31 appropriate body to make the consolidated decision on behalf of all affected

1 local governments; and

2 Whereas the project plays a critical role in reducing traffic congestion in
3 the Portland metropolitan area and enhancing the movement of people and
4 goods. The project is necessary to avoid unacceptable levels of congestion
5 and improve transportation and air quality in the metropolitan area; and

6 Whereas an emergency need exists to complete the route selection and
7 associated highway improvement decision process and fully resolve the re-
8 lated land use issues by July 15, 1991, in order to obtain federal funding for
9 the project, from downtown Portland to downtown Hillsboro, at the 75 per-
10 cent level. It is in the interest of the people of the State of Oregon to provide
11 for a speedy, efficient and exclusive process for judicial review of the related
12 land use issues in order to complete the funding process by September 30,
13 1991, and retain approximately \$227 million in federal funding. This Act shall
14 be liberally construed to accomplish such purposes; and

15 Whereas the supplemental draft environmental impact statement for
16 which the Tri-County Metropolitan Transportation District must obtain Ur-
17 ban Mass Transportation Administration approval by September 30, 1991,
18 includes only that portion of the project between downtown Portland and
19 SW 185th Street. The remaining portion, extending west to downtown
20 Hillsboro, will be addressed in a separate draft environmental impact state-
21 ment which the Tri-County Metropolitan Transportation District will pre-
22 pare following completion and signing of the full funding agreement. Under
23 federal legislation, the full funding agreement can be extended at the 75
24 percent funding level to include that portion from SW 185th to downtown
25 Hillsboro; now, therefore,

26 **Be It Enacted by the People of the State of Oregon:**

27 **SECTION 1.** As used in this Act, unless the context requires otherwise:

28 (1) "Administrator" means the State Court Administrator.

29 (2) "Affected local governments" means the cities of Portland, Beaverton
30 and Hillsboro; the Counties of Washington and Multnomah; and the Metro-
31 politan Service District established pursuant to ORS chapter 268.

(3) "Board" means the Land Use Board of Appeals.

(4) "Court" means the Oregon Supreme Court.

(5) "Criteria" means the criteria with which the project or project extension must demonstrate compliance, as provided in section 3 of this Act.

(6) "District" means the Tri-County Metropolitan Transportation District of Oregon established under ORS 267.010 to 267.390, or its successor agency.

(7) "Final order" means the final written order or orders of the governing body of the district selecting the light rail route and associated highway improvements for the project or the project extension.

(8) "Project" means the Westside Corridor Project between downtown Portland and S.W. 185th Avenue in Hillsboro, including project alternatives or options as set forth in the Westside Corridor Project Supplemental Draft Environmental Impact Statement.

(9) "Project extension" means an extension of the project from S.W. 185th Avenue to downtown Hillsboro.

(10) "Tri-County Metropolitan Transportation District" means the Tri-County Metropolitan Transportation District.

SECTION 2. (1) The Legislative Assembly reaffirms its commitment to the land use policies of this state and its municipal corporations. Except for demonstration of compliance with the criteria set forth in this Act, the Legislative Assembly finds that the project complies with all applicable comprehensive plan provisions of Multnomah and Washington Counties and the Cities of Portland, Beaverton and Hillsboro. The Legislative Assembly finds that approval of the project under the provisions of this Act is consistent with applicable statewide planning goals as follows:

(a) Goal 1 (Citizen Involvement): Tri-County Metropolitan Transportation District's process for adopting the Supplemental Draft Environmental Impact Statement has involved citizen advisory committee meetings and other public meetings at which interested members of the public have had the opportunity to participate and share their views on the project. The process set forth in this Act provides for a public hearing before Tri-County Metropolitan

1 Transportation District for interested persons to submit testimony. Affected
2 local governments also have provided opportunity for citizen participation
3 throughout the process and will provide further opportunity prior to Tri-
4 County Metropolitan Transportation District's adoption of the preferred al-
5 ternative report.

6 (b) Goal 2 (Land Use Planning): Consideration of the project has been
7 coordinated among affected cities and counties, Metropolitan Service Dis-
8 trict, Tri-County Joint Policy Advisory Committee on Transportation, De-
9 partment of Transportation and other affected state and federal agencies.
10 Tri-County Metropolitan Transportation District, Department of Transporta-
11 tion, Metropolitan Service District and the affected cities and counties also
12 have entered into an intergovernmental agreement, known as the Westside
13 Corridor Project Planning Coordination Agreement, to insure appropriate
14 coordination of the project. Through compliance with this Act, the decision
15 whether to build and the decision regarding route selection and associated
16 highway improvements will be supported by an adequate factual base and
17 will be consistent with affected comprehensive plans.

18 (c) Goal 5 (Natural Resources): Goal 5 will be met through compliance
19 with the criteria provided for in this Act.

20 (d) Goal 6 (Air, Land and Water Quality): The project will improve mo-
21 bility, reduce noise and congestion and improve air quality in the tri-county
22 region. The Department of Environmental Quality has identified the project
23 as a high air quality priority in the region.

24 (e) Goal 7 (Natural Hazards): Goal 7 will be met through compliance with
25 the criteria provided for in this Act.

26 (f) Goal 8 (Recreational Needs): Goal 8 does not apply because the project
27 does not involve recreational facilities. However, the project will enhance
28 public access to the Metro Washington Park Zoo, Washington Park,
29 Washington County Fairgrounds and other recreational facilities within the
30 project area, thereby facilitating public enjoyment of those recreational fa-
31 cilities.

1 (g) Goal 9 (Economy of the State): The project will provide better
 2 commuter and passenger service to metropolitan area residents. The project
 3 will improve public accessibility to jobs, housing, commercial areas and
 4 recreational facilities. The project also will stimulate and improve economic
 5 development in the area served by light rail transit stations. Acquisition of
 6 federal funding at 75 percent of project cost will reduce the local and state
 7 share of the project, thereby freeing those public funds for other purposes
 8 which benefit this state economy.

9 (h) Goal 10 (Housing): Light rail encourages housing types and densities
 10 commensurate with the needs and desires of Oregon residents and supports
 11 urbanization at more efficient housing densities.

12 (i) Goal 11 (Public Facilities and Services): The project is a public facility
 13 already included in the acknowledged comprehensive plans of affected juris-
 14 dictions. Light rail will provide an efficient transportation service to support
 15 urban development.

16 (j) Goal 12 (Transportation): The project will reduce principal reliance on
 17 the automobile, contribute to improved air quality, conserve energy, facili-
 18 tate the flow of goods and services and conform with local comprehensive
 19 plans which authorize light rail transit.

20 (k) Goal 13 (Energy Conservation): Light rail transit reduces principal
 21 reliance on gasoline consumption and conserves energy.

22 (L) Goal 14 (Urbanization): Light rail transit will increase mobility within
 23 the urban growth boundary and create incentives for residential, commercial
 24 and industrial development at appropriate densities and intensities to sup-
 25 port maximum efficiency of land uses.

26 (2) The Legislative Assembly finds that all other statewide planning goals
 27 do not apply to the Westside Corridor Project.

28 **SECTION 3.** The following procedures shall govern the conduct of the
 29 district in conducting a hearing for adoption of a final order. The procedures
 30 in ORS 197.763 shall not apply to proceedings regarding adoption of a final
 31 order.

(1) The district board shall identify the criteria that apply to the project or project extension. Prior to identification of the criteria, the district shall prepare or cause to be prepared a plan analysis, in coordination with affected local governments. The plan analysis shall identify those plan policies of the affected local governments that are applicable to the project and the project extension; those plan policies of the affected local governments with which the project or project extension already has demonstrated compliance; and criteria with which the project or project extension must demonstrate compliance in order to satisfy those plan policies of the affected local governments with which the project or project extension has yet to demonstrate compliance. The actions of the district board under this subsection shall not be subject to judicial or administrative review.

(2) The district shall publish notice of the hearing on the project or project extension in a newspaper of general circulation within the district at least seven days prior to the hearing. No other form of notice is required. The notice shall identify the project or project extension and the street address where the staff report and the criteria may be found. The notice shall also identify the date, time and location of the hearing and state that failure by any person to raise an issue, in person or by letter, or failure to provide sufficient specificity to afford the district an opportunity to respond to the issue precludes appeal to the board or court based on that issue.

(3) A copy of the staff report shall be available for inspection at no cost at least seven days prior to the hearing on the project or the project extension. The district may amend the staff report as it considers necessary prior to the hearing.

(4) The district board shall establish a procedure for public hearing on the project and the project extension. The procedure need not be that provided for contested case proceedings under ORS 183.413 to 183.470 and need not provide for continuances.

(5) At the commencement of the hearing, a statement shall be made to those in attendance that:

1 (a) Lists the criteria;

2 (b) States that testimony shall be directed toward the criteria; and

3 (c) States that failure to raise an issue, prior to the close of the public
4 hearing, with sufficient specificity to afford the district board an opportunity
5 to respond to the issue precludes review by the board or court on that issue.

6 (6) The district board may take official notice of any matter as authorized
7 by the Oregon Evidence Code or rules adopted by the district board.

8 (7) Following the close of the public hearing on the project or the project
9 extension, the district board shall adopt a final order. The district board may
10 continue the matter as it considers necessary for the purpose of final order
11 adoption. The district board shall consider comments by affected local gov-
12 ernments and the public in rendering its final order. The final order shall
13 be accompanied by written findings demonstrating compliance with the cri-
14 teria.

15 **SECTION 4.** (1) A final order shall require the state and all counties,
16 cities, special districts and political subdivisions to:

17 (a) Amend their comprehensive or functional plans, including public fa-
18 cility plans, and their land use regulations, to make them consistent with the
19 final order; and

20 (b) Issue the appropriate permits, licenses and certificates necessary for
21 the construction of project or project extension facilities. Permits, licenses
22 and certificates may be subject to reasonable and necessary conditions of
23 approval, but may not, either by themselves or cumulatively, prevent the
24 implementation of a final order.

25 (2) A final order shall be fully effective notwithstanding any other pro-
26 vision of state or local law.

27 (3) Plan and land use regulation amendments required under subsection
28 (1) of this section shall not be reviewable by any court or agency.

29 (4) Issuance of permits, licenses and certificates to implement a final or-
30 der may be the subject of administrative and judicial review as provided by
31 law. However, such review shall not have the effect of preventing the im-

1 plementation of a final order. The district may contest the necessity or
2 reasonableness of conditions of approval through administrative or judicial
3 review as provided by law.

4 (5) Each state or local government agency that issues a permit, license
5 or certificate for the project or project extension shall continue to exercise
6 enforcement authority over the permit, license or certificate.

7 **SECTION 5.** (1) Except as otherwise provided in section 7 of this Act,
8 and notwithstanding ORS 183.400, 183.482, 183.484 and 197.825 or any other
9 law, exclusive jurisdiction for review of a final order relating to the project
10 is conferred on the board and the Supreme Court as provided by this Act.

11 (2) Review of a final order relating to the project shall be initiated within
12 three days of adoption of that final order by personal delivery to the board,
13 to the State Court Administrator and to the district of a notice of intent to
14 appeal as required by this section.

15 (3) A person may petition for review of a final order relating to the
16 project if the person:

17 (a) Personally delivered a notice of intent to appeal the final order as
18 provided in subsection (2) of this section;

19 (b) Appeared before the district board orally or in writing in relation to
20 the project; and

21 (c) Is affected by residing or owning property within sight or sound of the
22 project or is adversely affected economically in excess of \$10,000 in value
23 exclusive of mitigation or compensation.

24 (4) A person's failure to raise an issue, orally or in writing, before the
25 district board, precludes that person from petitioning for review of that is-
26 sue.

27 (5) The notice of intent to appeal shall:

28 (a) Contain an affidavit stating the facts which support the petitioner's
29 standing as provided in subsection (3) of this section;

30 (b) State with particularity the grounds on which the petitioner assigns
31 error; and

(c) State the residence or business address of the petitioner to which documents may be delivered, and the telephone and facsimile number or numbers where the petitioner may be reached during normal business hours.

(6) The district shall personally deliver to the board and the administrator a record of its final order proceedings one day following the delivery of a notice of intent to appeal. The record shall be available to the public for the actual costs of preparation. The record shall consist of the final order, the notice of the final order hearing, the minutes of the hearing, any audiocassette recordings of the hearing, a statement of matters which have been officially noticed and documents presented during the hearing. The district shall provide one copy of the record to each petitioner at no charge.

(7) Any objection to the record shall be personally delivered to the board, the administrator and the district within four days following delivery of the record to the board. Within four days thereafter, responses to objections to the record shall be personally delivered to the board and delivered to the residences or offices of the persons objecting. Thereafter, the board shall rule expeditiously on objections. The board's ruling on objections shall not affect the briefing schedule or decision timeliness set forth in this Act.

(8) No stays of proceedings or interventions shall be permitted.

(9) Within 10 days following adoption of a final order, the petitioner shall personally deliver a petition for review to the board, the administrator and the district. The petition for review shall set out in detail each assignment of error and shall identify those portions of the record in which the petitioner raised in the final order hearing the issue as to which error is assigned. The petition for review shall comply with the specifications for briefs set forth in the Oregon Rules of Appellate Procedure.

(10) Within 17 days following adoption of the final order, the district shall personally deliver to the board, the administrator and the petitioner the district's response to the petition for review. The response shall comply with the specifications for answering briefs set forth in the Oregon Rules of Appellate Procedure.

(11) Within 24 days following adoption of the final order, the board shall hear oral argument. The board shall issue a final opinion within 15 days following oral argument. The final opinion of the board shall be in the form of a recommendation to the court that the final order be affirmed or remanded, stating reasons for the recommendation.

(12) The board shall recommend remand of the final order only if it finds that the final order:

(a) Is unlawful in substance in that the district has improperly construed the criteria applicable to the project;

(b) Is unlawful in procedure, but error in procedure shall be cause for remand only to the extent that the provisions of this Act have not been followed and that noncompliance has prejudiced a petitioner's substantial rights;

(c) Is unconstitutional; or

(d) Is not supported by substantial evidence in the whole record.

(13) The board forthwith shall file with the administrator the final opinion and a copy of its own record. The board shall provide copies of its final opinion to the parties and shall inform the parties of the filing of the final opinion by telephone or facsimile.

(14) Neither the board nor the court shall substitute its judgment for that of the district board as to any issue of fact or any issue within the discretion of the district board.

(15) Proceedings for review under this Act shall be given priority over all other matters before the board and court.

(16) The 77-day period provided under ORS 197.830 (14) applicable to all other appeals pending before the board at the time a notice of intent to appeal is delivered to the board under this section shall be extended 14 days.

SECTION 6. (1) Any party seeking court review of the board's final opinion shall personally delivery a request for review to the administrator and district within three days following the board's filing of its final opinion with the administrator and shall personally delivery a copy of the request

1 for review to all parties appearing before the board. If a request for review
2 is not filed within the time provided in this subsection the board's final
3 opinion shall become a final, nonappealable order.

4 (2) Within seven days following the filing of a request for review, any
5 party appearing before the board may submit a supplemental memorandum
6 to the court. The supplemental memorandum shall comply with the specifi-
7 cations for petitions for review set forth in the Oregon Rules of Appellate
8 Procedure.

9 (3) The court may hold oral argument and shall decide the matter with
10 the greatest expediency, consistent with this Act.

11 (4) The court shall affirm or remand the final order, in whole or in part.
12 The court shall base its decision on the standards for review set forth in of
13 section 5 (12) of this Act. If the court remands, the district shall respond
14 as to those matters remanded by adopting a final order on remand.

15 (5) If the court remands, the court shall retain jurisdiction over the mat-
16 ter. Within seven days following adoption of a final order on remand, the
17 parties before the court shall submit memoranda to the court with respect
18 thereto. The court's decision on the final order on remand shall be based on
19 the standards set forth in section 5 (12) of this Act.

20 **SECTION 7.** If a final order relating to the project is adopted on or after
21 March 30, 1991, then notwithstanding any contrary provisions of this Act:

22 (1) The Supreme Court shall have exclusive jurisdiction to review the
23 final order relating to the project and shall directly determine the validity
24 of that final order under such rules of procedure as it may establish, con-
25 sistent with sections 1 to 3 and 7 of this Act. In such event, the board shall
26 have no jurisdiction to review any proceedings under this Act.

27 (2) The notice of intent to appeal the final order shall be personally de-
28 livered to the administrator and the district within the times set forth and
29 shall contain the information required by section 5 of this Act.

30 (3) The record on appeal shall be the record as defined in section 5 of this
31 Act.

1 **SECTION 8.** Modifications to a final order resulting from adoption of the
2 final environmental impact statement under regulations implementing the
3 National Environmental Policy Act of 1969, as amended, or required by the
4 Federal Government to execute a full funding agreement shall be considered
5 technical and environmental mitigation measures and shall not be reviewable
6 by any court or state agency.

7 **SECTION 9.** The requirements in section 5 of this Act shall apply to a
8 final order of the district on the project extension, except that the timelines
9 set forth in ORS 197.805 to 197.835 shall apply to review by the board.

10 **SECTION 10.** This Act being necessary for the immediate preservation
11 of the public peace, health and safety, an emergency is declared to exist, and
12 this Act takes effect on its passage.

13

Revised December 21, 1990

WESTSIDE TRANSIT CORRIDOR
PLANNING COORDINATION AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 1990, by the Metropolitan Service District (Metro), Oregon Department of Transportation (ODOT), Tri-County Metropolitan Transportation District of Oregon (Tri-Met), Washington and Multnomah counties, political subdivisions of the State of Oregon, and the cities of Beaverton, Hillsboro and Portland, incorporated municipalities of the state of Oregon.

WHEREAS, ORS chapter 190 authorizes units of local government and state agencies to enter into agreements for the performance of any or all functions and activities that a party to the agreement, its officers or agents, have authority to perform; and

WHEREAS, Statewide Planning Goal 11 (Facilities Planning), ORS 197.190, ORS 268.385, and OAR 660-11-015(2) require that city and county public facility plans and actions related to transportation facilities shall be coordinated with each other and state and federal providers of public facilities; and

WHEREAS, ORS 197.185 and OAR 660-11-015(3) require special districts to assist in the development of public facility plans for those facilities they provide, and to enter into intergovernmental cooperative agreements with affected jurisdictions or Metro to coordinate the plans and programs of the District affecting land use; and

WHEREAS, The Westside Corridor Project Draft Environmental Impact Statement (DEIS) was completed in 1982; and

WHEREAS, The Westside light rail transit was the recommended corridor and mode of transportation in the 1983 Preferred Alternative Report for the Westside Corridor from Downtown Portland to S.W. 185th Avenue; and

WHEREAS, Tri-Met prepared a DEIS Evaluation Report in January 1989 which identified changed circumstances and changes to the proposed action which would result in significant environmental impacts not addressed in the DEIS, and recommended supplementing the 1982 DEIS; and

WHEREAS, A Supplemental Draft Environmental Impact Statement (SDEIS) is being prepared by Tri-Met and ODOT, with the concurrence of the Urban Mass Transportation Administration (UMTA) and Federal Highway Administration (FHWA), to evaluate impacts of changed circumstances since 1982; evaluate the impacts of LRT alignment option and highway improvement refinements to

the 1983 Preferred Alternative; and evaluate a No-Build alternative as required by the National Environmental Policy Act, a Transportation Systems Management (TSM) alternative as required by UMTA, and short termini options also required by UMTA; and

WHEREAS, A Preferred Alternative Report recommending an alternative is anticipated after hearings on the SDEIS technical findings; and

WHEREAS, Metro has initiated, with the concurrence of UMTA, an Alternative Analysis and Draft Environmental Impact Statement (AA/DEIS) for the Hillsboro Corridor west of 185th Avenue terminus of the Westside Corridor Project; and

WHEREAS, The Hillsboro AA/Draft EIS will evaluate an LRT extension, a TSM alternative, and a No-Build Alternative west of 185th Avenue; and

WHEREAS, A Preferred Alternative Report recommending an alternative is anticipated in the spring of 1991 after hearings on the AA/DEIS; and

WHEREAS, The Westside Corridor Project and Hillsboro Project Preferred Alternative adoption will be independent decisions; and

WHEREAS, To obtain federal funds at 75 percent of project cost, Tri-Met must complete a Final Environmental Impact Statement (FEIS) and sign a Full Funding Agreement with the Urban Mass Transportation Administration (UMTA) by September 30, 1991. Thereafter, a change in federal law will reduce federal participation in the project from the current 75 percent level to 50 percent or less of project cost; and

WHEREAS, Strong political and financial support for the Westside Corridor Project was demonstrated by 74 percent voter approval of a \$125 million bond measure increasing local property taxes in the tri-county region to fund a light rail build option; and

WHEREAS, Tri-Met is engaged in steps necessary to obtain a Full Funding Agreement with UMTA by the September 30, 1991, deadline. Tri-Met had originally expected to release the SDEIS and hold public hearings thereon by March 1989. Now, UMTA is expected to publish the SDEIS after January 1, 1991. Upon acceptance and publication by UMTA, the SDEIS must be circulated for 45 days, during which Tri-Met will hold a public hearing on the document. Following the hearing, Tri-Met must adopt a Preferred Alternative Report, identifying the alignment for the Westside Corridor Project; and

WHEREAS, A short time remains to specify a single agency to issue the "final order" in compliance with state land use processes; and

WHEREAS, After the SDEIS public hearing and prior to Tri-Met's public hearing and action on a Preferred Alternative Report, Tri-Met seeks recommendations from affected local governments; and

WHEREAS, State, regional, and local governments seek to coordinate facility planning for ~~this-major-regional transportation-corridor-from-the-time~~ selection of a project configuration ~~may-first-be-adopted~~ consistent with proposed legislation to amend state land use processes for this project;

NOW, THEREFORE, METRO, ODOT, TRI-MET, MULTNOMAH COUNTY, WASHINGTON COUNTY, AND THE CITIES OF BEAVERTON, HILLSBORO AND PORTLAND AGREE AS FOLLOWS:

- I. Plan and Zoning Review: Metro, Counties and Cities hereby agree to initiate staff review of existing regional functional plan, comprehensive plan, public facility plan and land use regulation provisions relating to transportation in the Westside Corridor. These parties shall identify amendments to regional functional plans, local comprehensive plan policies, public facility plan elements, land use regulations and other adopted comprehensive plan implementation measures that are required if a "build" option is selected in the Preferred Alternative Reports, and to identify local plan and land use regulation requirements for which findings of consistency will be necessary.
 - A. The cities of Portland, Beaverton, and Hillsboro, and Washington and Multnomah counties agree to prepare by January 15, 1991, explanations of compliance with applicable plan policies for project options set forth in the Westside Corridor Project SDEIS, including identification of specific criteria to comply with applicable plan policies remaining to be satisfied.
 - B. Tri-Met agrees to compile these explanations of compliance and identified remaining criteria into the "plan analysis" document proposed in draft legislation for use in explanation of the proposed legislation.

II. Preferred Alternative Recommendations

- A. After the SDEIS hearing and closure of the record each County and City governing body, the Metro Council, and the Oregon Transportation Commission shall consider a Resolution recommending a project alternative from the SDEIS or a no-build option to be the Preferred Alternative. The parties agree that action shall be taken by each governing body so that the Resolutions may be part of the record at Tri-Met's hearing on the Preferred Alternative Report.
- B. Tri-Met shall consider the remaining parties' recommendation of a Preferred Alternative in a public hearing on its Preferred Alternative Report.

III. Adoption of Preferred Alternative Report and Final Order

- A. Tri-Met shall adopt the Preferred Alternative Report selecting a Preferred Alternative, as required by federal procedures, after consideration of recommendations from the remaining parties. A separate action, based on the same hearing and record, called the Final Order, is identified in proposed legislation as the final decision to build the Preferred Alternative for state land use purposes. The final decision for state law purposes shall be accompanied by project findings based on the criteria for compliance with remaining local plan policies identified in the proposed legislation.
- B. All parties hereby agree to provide staff participation in the development of land use findings for applicable criteria for any project configuration in the Preferred Alternative Report considered for adoption by all affected jurisdictions. Tri-Met shall be responsible for coordinating the development of Project land use findings with the participation and assistance of all parties.

IV. Plan Amendments

All parties hereby agree to consider and take action on the Preferred Alternative Report as follows:

- A. Metro shall make any appropriate amendments to its Regional Transportation Plan necessary to be consistent with the Final Order of Tri-Met selecting a Preferred Alternative project, including a no-build option.
 - B. Each County and City shall make any appropriate amendments to its comprehensive plan necessary to be consistent with the Final Order of Tri-Met selecting a Preferred Alternative project, including a no-build option.
 - C. ODOT shall take such action as may be required by its certified state agency coordination program for its planning to be consistent with the Final Order of Tri-Met selecting a Preferred Alternative project, including a no-build option.
- V. Local Implementation: Implementation of comprehensive plan provisions for any Westside Corridor Project or Hillsboro Project will require detailed project design and mitigation specifications. These details are beyond the scope of a Preferred Alternative Reports project recommendation. Such design specification decisions shall be accomplished at design review or permit approval by each city or county consistent with its comprehensive plan, public facility plan, and zoning ordinance for that portion of the Westside Corridor or Hillsboro facility within its jurisdiction.

Specifically, in the City of Portland additional design specification decisions may include, but are not limited to the following actions: design review approval; land use approval for tracks, transit stations, electrical substations, and/or park-and-ride facility, if required by the underlying zone; the approval of easements, street use permits and/or subsurface leases pertaining to City rights-of-way; City Engineer order requiring relocation of existing facilities to accommodate construction; City Forester review under the proposed Scenic Resources Protection Plan, if adopted; review and selection of E zone mitigation measures, if applicable; and condemnation of property to accommodate construction, if necessary.

In Washington and Multnomah counties, public utility special use permits may be required for any park-and-ride facilities, transit centers, and relocation of public utilities. Facilities permits may be required

for LRT crossings of county roads, drainage pipes or other structures.

In the City of Beaverton, additional design specification decisions may be made following any necessary amendments to the General Plan and Development Code resulting from the adoption of a preferred alignment by one or more of the following actions: review by the Facilities Review Committee, which may include review of easements, street use permits, utilities, electric substations, and related technical issues; design review approval; floodplain alternation approval, land use approval for tracks, park-and-ride lots, and/or stations and related facilities; and the condemnation of property necessary to accommodate construction of the selected preferred alternative.

In the City of Hillsboro, additional design specification decisions may include, but are not limited to the following actions: Development Review approval; floodplain alteration approval, cultural resource alteration approval, land use approval for transit stations, electrical substations, and/or park-and-ride facilities, if required by the underlying zone; the approval of easements, street use permits and/or subsurface leases pertaining to City rights-of-way; relocation of existing facilities to accommodate construction; and condemnation of property to accommodate construction, if necessary.

- VI. Joint Defense of Appeals: All parties hereby agree that the appeal of ~~any-party's-action~~ Tri-Met's adoption of a Final Order to LUBA or the courts Oregon Supreme Court based on the ~~regional-goal~~ land-use project findings in III. above, shall cause the remaining parties who have adopted ~~the-Preferred Alternative-Reports-or~~ a Resolution of-Intent recommending the same Preferred Alternative that Tri-Met adopts to intervene as parties to the appeal upon Tri-Met's request, with coordinated participation and representation in defense of the recommendation decision. An appeal based on ~~additional-plan-or-land use-regulation-amendments-and-findings-in-III-7-above,~~ or an implementation action under ~~IV- V.~~ V., above, shall be the responsibility of the affected jurisdiction with the cooperation of all remaining parties, as appropriate.

VII. Coordination of Planning and Implementation Actions:

A. Definitions

1. Regional Transportation Plan means the regional functional plan for transportation adopted by Metro pursuant to ORS 268.390(2) containing transportation project recommendations and requirements identified as necessary for orderly and responsible development of the metropolitan area.
2. Comprehensive Plan shall have the meaning set forth in ORS 197.015(5).
3. Land Use Regulation shall have the meaning set forth in ORS 197.015(11).
4. Supplemental Draft EIS is the document being prepared by Tri-Met and ODOT with the concurrence of UMTA and FHWA to comply with the requirements of NEPA.
5. Preferred Alternative Report is the report being prepared to define the preferred alternative of light rail transit and any needed highways for the Westside Corridor Project.
6. Westside Corridor Project is the transit and highway project from downtown Portland to 185th Avenue.
7. Hillsboro Project is the project from 185th Avenue to the Hillsboro Transit Center.

- B. Metro, Counties and Cities shall provide all parties with the appropriate opportunity to participate, review and comment on proposed amendments to or adoption of the regional transportation plan, comprehensive plans, or implementing regulations relating to a Westside Corridor project. The following procedures shall be used by these parties to notify and involve all parties in the process to amend or adopt a regional transportation plan, comprehensive plan, or implementing regulation relating to a Westside Corridor project:

1. The party with jurisdiction over a proposed amendment, hereinafter the originating party, shall notify the other parties, hereinafter responding parties, of the proposed action at the time such planning efforts are initiated, but in no case less than forty-five (45) days prior to the final hearing on adoption. The specific method and level of involvement may be finalized by "Memorandums of Understanding" negotiated and signed by the planning directors or other appropriate staff of the respective parties. "Memorandums of Understanding" shall clearly outline the process by which the responding party shall participate in the adoption process.
2. The originating party shall transmit draft recommendations on any proposed actions to the responding parties for review and comment before finalizing. Unless otherwise agreed to in a "Memorandum of Understanding," responding parties shall have ten (10) days after receipt of a draft to submit comments orally or in writing. Lack of response shall be considered "no objection" to the draft.
3. The originating party shall respond to the comments made by the responding party either by a) revising the final recommendations, or b) by letter to the responding party explaining why the comments cannot be addressed in the final draft.
4. Comments from the responding parties shall be given consideration as a part of the public record on the proposed action. If after such consideration, the originating party acts contrary to the position of a responding party, the responding party may seek appeal of the action through the appropriate appeals body and procedures.
5. Upon final adoption of the proposed action by the originating party, it shall transmit the adopting ordinance to the responding party as soon as publicly available, or if not adopted by ordinance, whatever other written documentation is available to properly inform the responding party of the final actions taken.

VIII. Amendments to this Facilities Planning Coordination Agreement

- A. The following procedures shall be followed by all parties to amend the language of this agreement:
1. The party originating the proposal, shall submit a formal request for amendment to the responding parties.
 2. The formal request shall contain the following:
 - a. A statement describing the amendment.
 - b. A statement of findings indicating why the proposed amendment is necessary.
 - c. If the request is to amend a recommendation of the Preferred Alternative Report, a map which clearly indicates the location of the proposed change and surrounding area.
 3. Upon receipt of a request for amendment from the originating party, responding parties shall schedule a review of the request before the appropriate governing bodies with forty-five (45) days of the date the request is received.
 4. All parties shall make good faith efforts to resolve requests to amend this Agreement. Upon completion of the review, the reviewing body may approve the request, deny the request, or make a determination that the proposed amendment warrants additional review. If it is determined that additional review is necessary, the following procedures shall be followed:
 - a. All parties shall agree to initiate a joint study. Such a study shall commence within thirty (30) days of the date it is determined that a proposed amendment creates a disagreement, and shall be completed within ninety (90) days of said date. Methodologies and procedures regulating the conduct of the joint study shall be mutually agreed upon by all parties prior to commencing the study.

b. Upon completion of the joint study, the study and the recommendations drawn from it shall be included within the record of the review. The party considering the proposed amendment shall give careful consideration to the study prior to making a final decision.

B. The parties will jointly review this Agreement every two (2) years to evaluate the effectiveness of the processes set forth herein and to make any amendments. The review process shall commence two (2) years from the date of execution and shall be completed within sixty (60) days. All parties shall make a good faith effort to resolve inconsistencies that may have developed since the previous review. If, after completion of the 60-day review period inconsistencies still remain, any party may terminate this Agreement.

METROPOLITAN SERVICE DISTRICT

OREGON DEPARTMENT OF
TRANSPORTATION

TRI-COUNTY
METROPOLITAN TRANSPORTATION
DISTRICT OF OREGON

WASHINGTON COUNTY

MULTNOMAH COUNTY

CITY OF BEAVERTON

CITY OF HILLSBORO

CITY OF PORTLAND

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1024c

TRANSPORTATION and PLANNING COMMITTEE REPORT

**RESOLUTION NO. 91-1378,
ENDORING WESTSIDE CORRIDOR PROJECT IMPLEMENTATION MEASURES**

Date: January 23, 1991 Presented by: Councilor Devlin

COMMITTEE RECOMMENDATION

At its January 22, 1991 meeting, the Transportation and Planning Committee voted unanimously (Bauer, Devlin, Gardner, McLain, and Van Bergen) to recommend Council adopt Resolution No. 91-1378.

BACKGROUND

Resolution No. 91-1378

- o endorses HB 2128 (LC 1204) which provides the state's half of the local match for the Westside LRT project
- o endorses HB 2296 (LC 2193) which provides a streamlined land use decision-making and review process
- o approves an amendment to the Intergovernmental Agreement among Metro, Tri-Met, ODOT, Portland, and Washington and Multnomah counties providing for local agreement to follow the streamlined land use process

The Governmental Affairs Committee, at its January 17, 1991 meeting, voted unanimously to recommend Council adopt Resolution No. 91-1378.

COMMITTEE DISCUSSION/ISSUES

Committee discussion and staff response centered on three issues:

- + These measures should not be perceived as "supersiting," although exceptions to process may make subsequent exceptions easier. HB 2296 recites about four-and-one-half pages of background, including prior public reviews and the federal match issue, which distinguish these unique "fast track" circumstances.
- + The Councilors' wholehearted support for the measures.
- + The need to communicate to all Councilors that opposition to one or another locational decision will be very vocal, heated and prominently reported. It is important to understand the background, the streamlined process, and the project itself.

GOVERNMENTAL AFFAIRS COMMITTEE REPORT

RESOLUTION NO. 91-1378, ENDORSING WESTSIDE CORRIDOR PROJECT
IMPLEMENTATION MEASURES

Date: January 18, 1991

Presented by: Councilor DeJardin

Committee Recommendation: At its January 17, 1991 meeting the Committee voted unanimously to recommend Council adoption of Resolution No. 91-1378. Voting were Councilors Devlin, Collier, and DeJardin. Councilors Knowles and Hansen were absent.

Committee Discussion/Issues: Chair Devlin explained that the role of the Governmental Affairs Committee in reviewing this Resolution was to determine whether it was in conflict with any other element of Metro's legislative agenda. The substantive issues will be reviewed by the Transportation & Planning Committee.

Andy Cotugno gave a brief summary of the Resolution. It endorses adoption of HB 2128 providing the state's portion of the local match for Westside LRT, and endorses a proposal to expedite the appeal process for the project in order to keep the project within its very tight time line.

The Committee supported the proposed Resolution, and found that it was not in conflict with Metro's legislative agenda. The funding element is to come from tobacco tax, which is not specified elsewhere as a funding source. The Committee briefly discussed whether the expedited appeal process could be construed as a superseding bill, and they determined that it did not give such authority to anyone.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 91-1378 FOR THE PURPOSE OF ENDORSING WESTSIDE CORRIDOR PROJECT IMPLEMENTATION MEASURES

Date: January 8, 1991

Presented by: Andrew Cotugno

FACTUAL BACKGROUND AND ANALYSIS

PROPOSED ACTION

Adopt Resolution No. 91-1378 relating to implementation measures for the Westside Corridor project:

1. Endorsing adoption by the Oregon Legislature of HB 2128 providing the state's half of the local match for the Westside LRT project.
2. Proceeding with two measures to expedite and streamline the decision-making process for the approval of the preferred alternative for the Westside Corridor project.
 - a. Endorsing adoption by the Oregon Legislature of LC 2193 providing for a streamlined decision-making and review process under Oregon land use law; and
 - b. Authorizing execution of an amendment to the Inter-governmental Agreement between Metro, Tri-Met, ODOT, Portland, Washington County and Multnomah County providing for local agreement to follow this streamlined process.

BACKGROUND

. HB 2128

The intended financing approach for the Westside Corridor project includes the following elements:

- a. 75 percent UMTA funding for the LRT project provided for in the '91 Appropriations Bill and required to be executed in a Full-Funding Agreement by September 30, 1991 upon securing all aspects of the required local match and upon completion of the required EIS process.
- b. Funding for the Sunset Highway and Highway 217 aspects of the project by ODOT as provided in the '90-96 ODOT Highway Improvement Program.

- c. Provision of one-half the local match for the LRT project by a combination of Tri-Met General Obligation bonds as approved by the voters in the November 1990 general election, plus commitment of an additional \$21 million of local funds from jurisdictions representing benefitted constituencies as follows:

Tri-Met	\$ 7 million
Metro	2
Portland.	7
Washington County	5
	<hr/>
	\$21 million

- d. Provision of one-half the local match for the LRT project by the Oregon Legislature.

HB 2128 will be considered by the Oregon Legislature to provide their half of the local match. The bill provides a two-step mechanism: first, a commitment of \$10 million per year revenue stream from the existing cigarette tax to the Regional Light Rail Construction Fund and, second, use of the revenue stream to repay incurred debt necessary to provide the required local match amount.

This resolution endorses adoption of HB 2128 by the Oregon Legislature.

. LC 2193

The Oregon Legislature will consider adoption of LC 2193 providing for a streamlined decision-making process and an expedited procedure for judicial review of the project decision under Oregon land use law. Key provisions include:

- a. Definition of the Tri-Met Board of Directors' decision to be the final order for selection of the preferred corridor alternative based upon input and recommendation from Metro, Portland, Washington County, Multnomah County and ODOT.
- b. Requirement that any comprehensive or regional plans requiring amendment must be consistent with this final order.
- c. Definition of the criteria for adoption of the final order.
- d. Definition of the procedures, criteria and schedule for appeal of the final order for judicial review by the state Land Use Board of Appeals (LUBA) and the Oregon Supreme Court.

This action is necessitated by the delay in starting the project approval process due to delays in the schedule for federal approval and release of the Supplemental Draft

Environmental Impact Statement (SDEIS). Under previously established schedules, a more lengthy decision-making and judicial review schedule could have been possible. However, since the final deadline of September 30, 1991 to sign the Full-Funding contract under provisions of the existing Surface Transportation Act cannot be delayed, current schedules for releasing the SDEIS require compressing the schedule. This proposal maintains the key requirement for public hearings and input, jurisdictional input and judicial review but with a very specifically defined procedure and schedule. Integral to the bill are the recitals reflected on pages 1 through 5 describing the unique circumstances necessitating this bill.

This resolution endorses adoption of LC 2193 by the Oregon Legislature.

Intergovernmental Agreement

The Current Intergovernmental Agreement was executed between the eight parties of the Westside Corridor project consistent with a process involving a more lengthy decision-making process. This amended agreement provides for the same eight jurisdictions to agree to the more streamlined process provided for by LC 2193.

This resolution authorizes execution of the amended Intergovernmental Agreement.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-1378.

ACC:lmk
1-8-91
91-1378.RES